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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/767,535	01/29/2004	Andrea Cinotti	TORT 2 00002	5371
27885	7590	10/15/2004	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP			SIPOS, JOHN	
1100 SUPERIOR AVENUE, SEVENTH FLOOR			ART UNIT	
CLEVELAND, OH 44114			PAPER NUMBER	
			3721	

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,535

Applicant(s)

CINOTTI ET AL.

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/19/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

The following is a quotation of the second paragraph of 35 U.S.C. ' 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under **35 U.S.C. ' 112, second paragraph**, as being **indefinite** for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "independent laws of motion" at the end of claim 1 is indefinite in that it is not sufficiently defined. It is assumed that the term refers to each sealing device being driven and moving independently of the other sealing devices. The claim should be amended to more clearly define this operation and structure.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of the appropriate paragraphs of 35 U.S.C. ' 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1 and 3-5 are rejected under **35 U.S.C. ' 102(b)** as being clearly anticipated by the patent to Nankervis (6,408,600). The patent to Nankervis shows a packaging device comprising a wrapping mechanism 13 that forms a tube of film around a line of products and

sealing means 13 that seals the film between the products. The sealing means comprises at least two pairs of heated sealing devices 27,28 movable along the sealing path with orienting means that permit the heated surfaces to oscillate relative to their supporting carriages to maintain them parallel to the sealing path (see Figure 20 and column 7, line 39 et seq.), and actuating means (see column 7, line 65 et seq.) that move the sealing devices at variable travel speed independently of each other.

Claims 1,3 and 4 are rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Kovacs (5,433,063). The patent to Kovacs shows a packaging device comprising a wrapping mechanism 32 that forms a tube of film around a line of products and sealing means 34 that seals the film between the products. The sealing means comprises at least two pairs of heated sealing devices 134,136 movable along the sealing path with orienting means that permit the heated surfaces to oscillate relative to their supporting carriages to maintain them parallel to the sealing path (see Figures 5-13), and actuating means (see column 9, line 18 et seq.) that move the sealing devices at variable travel speed independently of each other.

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 10-13 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Nankervis (6,408,600) or Kovacs (5,433,063).

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The use of logic control (claim 2) and power means with slidable contacts (claims 10 and 11) are well known in the art and their use in the Nankervis or Kovacs machines would have been obvious to one of ordinary skill in the art for their inherent advantages.

ALLOWABLE SUBJECT MATTER

Claims 6-10,12 and 13 are objected to as being dependent upon a rejected base claim, but **would be allowable if rewritten in independent form** to include all of the limitations of the base claim and any intervening claims and if rewritten to overcome the indefiniteness rejection.

ADDITIONAL REFERENCES CITED

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

Note the patent to Reid shows a packaging machine comprising of independently movable sealing devices which are powered by slidable contacts and brushes (see column7, line 51 et seq. and Figure 6.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

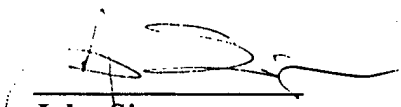
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner
Art Unit 3721

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